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Status of the Protocols Additional to the Geneva Conventions of 1949 and relating to the protection of victims of armed conflicts

Letter dated 27 April 2017 from the Permanent Representative of Switzerland to the United Nations addressed to the Secretary-General

Switzerland, in its capacity as the depositary of the Protocol additional to the Geneva Conventions of 12 August 1949, and relating to the protection of victims of international armed conflicts, runs the secretariat of the International Humanitarian Fact-Finding Commission. In this capacity, I have the honour to transmit to you a letter from the President of the Commission, Thilo Marauhn (see annex).*

I should be grateful if you would have the present letter and its annex circulated as a document of the General Assembly, under agenda item 81.

(*Signed*) Jürg **Lauber**
Ambassador
Permanent Representative

* The annex is being circulated in the language of submission only.

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Annex to the letter dated 27 April 2017 from the Permanent Representative of Switzerland to the United Nations addressed to the Secretary-General

Letter dated 18 April 2017 from the President of the International Humanitarian Fact-Finding Commission addressed to the President of the General Assembly

Availability of the International Humanitarian Fact-Finding Commission

I have the honour to report to you that, following the 2016 diplomatic meeting of the States accepting the competence of the International Humanitarian Fact-Finding Commission, held pursuant to article 90 of the Protocol additional to the Geneva Conventions of 12 August 1949, and relating to the protection of victims of international armed conflicts, the Commission held its annual meeting in Geneva from 20 to 22 February 2017. At the meeting, the new members of the governing body of the Commission — the Bureau — were elected, and I was personally bestowed with the honour of presiding over the Commission for the next three years.

In this capacity I reiterate to you — and through your agency to all States Members of the General Assembly — the Commission's commitment to contributing to peace and international security by discharging its competences under article 90 of Additional Protocol I. These include not only fact-finding processes but also wide-ranging good offices to foster an attitude of respect for international humanitarian law.

To promote better knowledge of its legal capacities and confidence-building potential, the Commission stands ready to, inter alia, participate in a thematic debate of the General Assembly. Such a debate could be included in the Assembly's agenda in view of the fortieth anniversary of the adoption of Additional Protocol I. A formal description of such potential and capacities has been provided in an aide-memoire (see enclosure).

I therefore kindly ask you to distribute the present letter and the enclosure as a document of the General Assembly.

(*Signed*) Thilo **Marauhn**
President of the International Humanitarian Fact-Finding Commission

Enclosure

International Humanitarian Fact-Finding Commission

To secure the guarantees afforded to the victims of armed conflicts, article 90 of the Protocol additional to the Geneva Conventions of 12 August 1949, and relating to the protection of victims of international armed conflicts, provides for the establishment of an international fact-finding commission. The International Humanitarian Fact-Finding Commission was subsequently established in 1991. It is a permanent body of 15 independent experts, acting in their personal capacity, elected by the States having made a declaration of recognition under article 90 of Additional Protocol I. The Commission's essential purpose is to contribute to implementing and ensuring respect for international humanitarian law in armed conflict situations.

The Commission fulfils its mandate by:

(a) Enquiring into any facts alleged to be grave breaches or serious violations of international humanitarian law;

(b) Facilitating through its good offices the restoration of an attitude of respect for the Conventions and Additional Protocol I;

(c) Reporting its findings to the States involved and making such recommendations as it deems appropriate.

In the fulfilment of its mandate, the Commission observes the principles of neutrality, independence, impartiality and confidentiality. In its capacity as the depositary of the Geneva Conventions and the Additional Protocols thereto, Switzerland runs the secretariat of the Commission. Each State that has recognized the competence of the Commission has the right to refer for investigation situations of armed conflict to the Commission on the condition that all parties involved have equally recognized the Commission's competence. A State party to Additional Protocol I may make a comprehensive declaration, thereby recognizing the Commission's competence, or it may consent to an investigation into the facts of a particular dispute. A comprehensive declaration can be made at any time.

Currently, 76 States have made a comprehensive declaration under article 90.

The special added value of the Commission is that it combines the following qualities:

(a) It is the only permanent and treaty-based international body for international humanitarian law fact-finding and good offices;

(b) It focuses on confidence-building between the parties and on prevention of the recurrence of breaches of international humanitarian law;

(c) As a State-driven process, it provides an avenue for States to demonstrate their commitment to ensuring respect for international humanitarian law;

(d) Commission members act on the basis of their individual expertise and professional portfolios;

(e) The Commission acts impartially, independently and confidentially;

(f) It limits itself to making recommendations to the parties to the conflict; it is not a court of law and therefore it does not issue judicial decisions.

For further information, visit www.ihffc.org.